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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,804	10/20/2008	Nathan Kane	JJTP-0039 / TP15054USPCT	4853
45511 7590 02/19/2010 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER WEISZ, DAVID G	
			ART UNIT 1797	PAPER NUMBER
			NOTIFICATION DATE 02/19/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@woodcock.com

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/599,804

Applicant(s)

KANE ET AL.

Examiner

DAVID WEISZ

Art Unit

1797

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 1/28/2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Yelena G. Gakh/  
Primary Examiner, Art Unit 1797

Continuation of 3. NOTE: In response to the Applicant's amendments and remarks filed 1/28/2010, the examiner maintains the previous grounds of rejection, and will not subsequently enter the amendments as they will require further search and consideration. While indeed Yamamura does not disclose the angle of incidence to be 0.5 degrees as previously stated, the reference, in the same section, discloses a double angle of incidence to be 5 degrees, or subsequently 2.5 degrees. As the applicants provide no scale or range for which the angle of incidence should be, other than less than 2.5 degrees, and applicant's specification states that the angle of incidence should be less than or equal to 2.5 degrees [0055], the examiner maintains that the Yamamura reference still obviates the applicant's previous claims. With respect to the combination of Duffield and Yamamura, Duffield merely discloses the translocation of a compacted powder. As the pressure and sizes of powder pellets are not specifically defined in the claims, one having ordinary skill in the art could interpret the the plug to be any number of shapes, sizes and configurations, as could possibly be achieved in a combination of Yamamura and Duffield references. Thus, absent these specifics in the claims, and the fact that Duffield is referenced merely to show a possible coring method usable with Yamamura, the rejection of the claims as they are currently presented stands. With regard to the combination of Yamamura, Duffield and Vann, the Vann reference is merely cited to show that multi-sample racks responsive to radiation spectroscopy exist for samples of an unspecified size, and that one having ordinary skill in the art would, in effect, know how to construct such an apparatus for use with Yamamura and Duffield. As with the Vann reference, the Maher reference is cited merely to show that many plates and racks are known in the art that can absorb many different kinds of radiation, and that one having ordinary skill in the art would reasonably be able to construct such an apparatus without difficulty to carry out the method of Yamamura-Duffield by routine experimentation.